

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Mark A. Clay	)	File No. EB-02-CF-712
Huntington, West Virginia	)	NAL/ACCT No. 200332340003
	)	FRN: 0005-3791-77

**FORFEITURE ORDER**

**Adopted: June 14, 2004****Released: June 16, 2004**

By the Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In a January 29, 2003 *Notice of Apparent Liability for Forfeiture (NAL)*,<sup>1</sup> the District Director-Columbia Office proposed a monetary forfeiture of ten thousand dollars (\$10,000) for Mark A. Clay (Clay) based on an apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (Act).<sup>2</sup> The noted violation involves the operation of an unlicensed FM broadcast station on the frequency 98.1 MHz, at 5666 Lynn Creek Road, Huntington, West Virginia. In this *Forfeiture Order*, we reduce the proposed monetary forfeiture to one thousand dollars (\$1,000) based on Clay's financial showing.

**II. DISCUSSION**

2. Mr. Clay does not contest the subject violation. Clay's February 28, 2003 letter response to the *NAL*, primarily concerns the issue of his inability to pay the proposed forfeiture amount. Mr. Clay submits federal income tax returns for the years 2000, 2001 and 2002 as corroborating evidence of his situation. After reviewing Mr. Clay's submission and taking into consideration the value of the equipment used in connection with his unlawful operation, we conclude that a reduction of the proposed forfeiture from \$10,000 to \$1,000 is warranted.

3. Because Clay has continued to operate on the subject frequency without a license, notwithstanding previous inspections, we will require, pursuant to Section 308(b)<sup>3</sup> of the Act, that Clay report to the Enforcement Bureau within thirty (30) days of the release of this Order whether he has ceased operation of the unlicensed FM broadcast station. Clay's report must be submitted in the form of a sworn declaration. If Clay fails to submit such a report indicating that he has ceased operation, we will consider further appropriate enforcement action, including potential revocation of his amateur radio license.

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<sup>1</sup> *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332340003 (Enf. Bur., Columbia Office, released January 29, 2003).

<sup>2</sup> 47 U.S.C. § 301.

<sup>3</sup> 47 U.S.C. § 308(b).

### III. ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 503(b) of the Act<sup>4</sup> and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission's Rules,<sup>5</sup> Mark A. Clay **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of one thousand dollars (\$1,000) for willfully and repeatedly violating Section 301 of the Act.

5. **IS ALSO ORDERED** that, pursuant Section 308(b) of the Act, Mr. Clay must submit the report described in Paragraph 3, above, within 30 days from the release of this Order, to: Federal Communications Commission, Enforcement Bureau, Spectrum Enforcement Division, 445 12th Street, S.W., Room 4-C425, Washington, D.C. 20554, Attention: Jennifer Burton, Esquire.

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules<sup>6</sup> within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.<sup>7</sup> Payment shall be made by mailing a check or similar instrument, payable to the order of the "Federal Communications Commission," to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note NAL/Acct. No. 200332340003, and FRN 0005-3791-77. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554.<sup>8</sup>

7. **IT IS FURTHER ORDERED THAT** this *Order* shall be sent by first class mail and certified mail, return receipt requested, to Mr. Mark A. Clay, 5666 Lynn Creed Rd, Huntington, West Virginia 26704-9732.

### FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>4</sup>47 U.S.C. § 503(b).

<sup>5</sup>47 C.F.R. §§ 0.111, 0.311 and 1.80(f)(4).

<sup>6</sup>47 C.F.R. §1.80

<sup>7</sup>47 U.S.C. § 504(a).

<sup>8</sup>47 U.S.C. § 1.1914.